

Introduced by Senator Atkins

February 7, 2017

An act to amend Section 802 of the Penal Code, and to amend Sections 20116, 20657, 20922, and 22033 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 256, as introduced, Atkins. Public contracts: criminal offenses and statute of limitations.

Existing law makes it unlawful to split or separate into smaller work orders or projects for various local entities, including cities, counties, community college districts, reclamation districts, and school districts, for the purpose of evading laws requiring public works to be done by contract after competitive bidding. Existing law makes that act a misdemeanor if the work order or project is for a city or county.

This would make those acts a misdemeanor if the work order or project is for a community college district, reclamation district, or school district, or for a public agency whose governing board has by resolution elected to become subject to specified uniform construction cost accounting procedures and has notified the Controller of that election. By creating new crimes, the bill would impose a state-mandated local program.

Existing law generally requires that prosecution for an offense not punishable by death, imprisonment in the state prison, or specified felonies punishable by imprisonment in a county jail, be commenced within one year after commission of the offense, except as specified.

This bill would require that prosecution for a misdemeanor violation of the crimes described above with respect to a city, county, community college district, reclamation district, or school district, or with respect

to a public agency whose governing board has by resolution elected to become subject to specified uniform construction cost accounting procedures and has notified the Controller of that election, commence within 3 years of the commission of the offense.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 802 of the Penal Code is amended to
2 read:

3 802. (a) Except as provided in subdivision (b), (c), (d), ~~or (e)~~,
4 (e), or (f), prosecution for an offense not punishable by death or
5 imprisonment in the state prison or pursuant to subdivision (h) of
6 Section 1170 shall be commenced within one year after
7 commission of the offense.

8 (b) Prosecution for a misdemeanor violation of Section 647.6
9 or former Section 647a committed with or upon a minor under the
10 age of 14 years shall be commenced within three years after
11 commission of the offense.

12 (c) Prosecution of a misdemeanor violation of Section 729 of
13 the Business and Professions Code shall be commenced within
14 two years after commission of the offense.

15 (d) Prosecution of a misdemeanor violation of Chapter 9
16 (commencing with Section 7000) of Division 3 of the Business
17 and Professions Code shall be commenced as follows:

18 (1) With respect to Sections 7028.17, 7068.5, and 7068.7 of the
19 Business and Professions Code, within one year of the commission
20 of the offense.

21 (2) With respect to Sections 7027.1, 7028.1, 7028.15, 7118.4,
22 7118.5, 7118.6, 7126, 7153, 7156, 7157, 7158, 7159.5 (licensee
23 only), 7159.14 (licensee only), 7161, and 7189 of the Business
24 and Professions Code, within two years of the commission of the
25 offense.

1 (3) With respect to Sections 7027.3 and 7028.16 of the Business
2 and Professions Code, within three years of the commission of the
3 offense.

4 (4) With respect to Sections 7028, 7159.5 (nonlicensee only),
5 and 7159.14 (nonlicensee only) of the Business and Professions
6 Code, within four years of the commission of the offense.

7 (e) Prosecution for a misdemeanor violation of Section 6126,
8 10085.6, 10139, or 10147.6 of the Business and Professions Code
9 or Section 2944.6 or 2944.7 of the Civil Code shall be commenced
10 within three years after discovery of the commission of the offense,
11 or within three years after completion of the offense, whichever
12 is later.

13 (f) *Prosecution for a misdemeanor violation of Section 20116,*
14 *20123.5, 20150.11, 20163, 20657, 20922, or 22033 of the Public*
15 *Contract Code shall commence within three years of the*
16 *commission of the offense.*

17 SEC. 2. Section 20116 of the Public Contract Code is amended
18 to read:

19 20116. It shall be unlawful to split or separate into smaller
20 work orders or projects any work, project, service, or purchase for
21 the purpose of evading the provisions of this article requiring
22 contracting after competitive bidding. *Every person who willfully*
23 *violates this section is guilty of a misdemeanor.*

24 The district shall maintain job orders or similar records indicating
25 the total cost expended on each project in accordance with the
26 procedures established in the most recent edition of the California
27 School Accounting Manual for a period of not less than three years
28 after completion of the project.

29 Informal bidding may be used on work, projects, services, or
30 purchases that cost up to the limits set forth in this article. For the
31 purpose of securing informal bids, the board shall publish annually
32 in a newspaper of general circulation published in the district, or
33 if there is no such newspaper, then in some newspaper in general
34 circulation in the county, a notice inviting contractors to register
35 to be notified of future informal bidding projects. All contractors
36 included on the informal bidding list shall be given notice of all
37 informal bid projects in any manner as the district deems
38 appropriate.

39 SEC. 3. Section 20657 of the Public Contract Code is amended
40 to read:

1 20657. It shall be unlawful to split or separate into smaller
2 work orders or projects any work, project, service, or purchase for
3 the purpose of evading the provisions of this article requiring
4 contracting after competitive bidding. *Every person who willfully*
5 *violates this section is guilty of a misdemeanor.*

6 The district shall maintain job orders or similar records indicating
7 the total cost expended on each project in accordance with the
8 procedures established in the most recent edition of the California
9 Community-College Colleges Budget and Accounting Manual for
10 a period of not less than three years after completion of the project.

11 Informal bidding may be used on work, projects, services, or
12 purchases that cost up to the limits set forth in this article. For the
13 purpose of securing informal bids, the board shall publish annually
14 in a newspaper of general circulation published in the district, or
15 if there is no such newspaper, then in some newspaper in general
16 circulation in the county, a notice inviting contractors to register
17 to be notified of future informal bidding projects. All contractors
18 included on the informal bidding list shall be given notice of all
19 informal bid projects, in any manner as the district deems
20 appropriate.

21 SEC. 4. Section 20922 of the Public Contract Code is amended
22 to read:

23 20922. It is unlawful to split or separate into smaller work
24 orders or projects for the purpose of evading the provisions of this
25 article requiring work to be done by contract after competitive
26 bidding. *Every person who willfully violates this section is guilty*
27 *of a misdemeanor.*

28 SEC. 5. Section 22033 of the Public Contract Code is amended
29 to read:

30 22033. It shall be unlawful to split or separate into smaller
31 work orders or projects any project for the purpose of evading the
32 provisions of this article requiring work to be done by contract
33 after competitive bidding. *Every person who willfully violates this*
34 *section is guilty of a misdemeanor.*

35 SEC. 6. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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